

**CALENDAR ITEM
C35**

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J. Holt

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Van Sickle Duck Club, LLC

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Spoonbill Slough at Van Sickle Island, adjacent to Solano County Assessor's Parcel Number 0090-060-400, Solano County.

AUTHORIZED USE:

Use and maintenance of an existing floating boat dock, three pilings, landing, and ramp not previously authorized by the Commission.

LEASE TERM:

10 years, beginning April 20, 2017.

CONSIDERATION:

\$202 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Requires the lessee to comply with rules, regulations, statutes or ordinances of the State Lands Commission or any Regulatory Agency, including but not limited to, regulations of the California Department of Fish and Wildlife pertaining to the prohibition on the use of lead projectiles and ammunition using lead projectiles for the take of wildlife (14 Cal. Code Regs. § 250.1).

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

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Public Trust and State's Best Interests Analysis:

On October 4, 2016, the Commission received a lease application from Van Sickle Duck Club, LLC. The Applicant requested issuance of a General Lease – Recreational Use for the use and maintenance of an existing floating boat dock, three pilings, landing, and ramp. These facilities are privately owned and maintained, and have existed at this location for many years. The Applicant has the right to access these facilities. However, they were not previously authorized by the Commission. Staff became aware of these facilities while conducting site visits in Solano County.

The existing floating boat dock and appurtenant facilities are used for boating in the Spoonbill Slough. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The subject structures do not significantly alter the land. The lease does not alienate the State's fee simple interest or permanently impair public rights. Upon termination of the lease, the Applicant may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the existing floating boat dock and appurtenant facilities will not substantially interfere with Public Trust needs at this location at this time, and for the foreseeable term of the proposed lease.

The proposed lease includes certain provisions protecting the public use of the lease area, including a limited lease term of 10 years and a non-exclusive use provision. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways of California. The lease area located within Spoonbill Slough is a tidally-influenced site, consisting of shallow coastal areas vulnerable to flooding at current sea levels and at a higher risk of flood exposure given future projected scenarios of sea-level

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rise. The facilities within the lease area include an existing floating boat dock, three pilings, landing, and ramp. By 2030, this region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding and storms (especially when coupled with sea-level rise).

In tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than previously experienced. Finally, in tidally-influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could potentially increase the likelihood of damage to structures within the lease premises during the term of the lease. The floating boat dock is adaptable to variable water levels, but may require more frequent maintenance to avoid dislodgement and ensure continued function during and after storm seasons. The Applicant has observed that, under current tidal conditions, the floating dock can rise until there is between one and seven feet of height differential between the dock and the top of the ramp. The ramp and pilings may need reinforcement to withstand higher levels of flood exposure with potential piling replacement if existing structures cannot clear future water levels. Although not within the lease area, the top of the ramp and adjacent upland may experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a public safety hazard. Finally, the vegetated bank is at risk of accelerated deterioration from higher and stronger currents and floods.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to effects of climate change, including sea-level rise.

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Conclusion:

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Applicant, beginning April 20, 2017, for a term of 10 years, for the use and maintenance of an existing floating boat dock, three pilings, landing, and ramp not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$202, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 27051

LAND DESCRIPTION

One parcel of tide and submerged land situated in the bed of the Spoonbill Slough, lying adjacent to Swamp and Overflow Lands survey 300, patented April 6, 1878, County of Solano, State of California, more particularly described as follows:

All those lands underlying an existing floating boat dock, three pilings, ramp, and landing lying adjacent to that parcel described in Partnership Grant Deed recorded April 26, 1999 as Document Number 1999-00035243 in Official Records of Solano County.

TOGETHER WITH any applicable impact area.

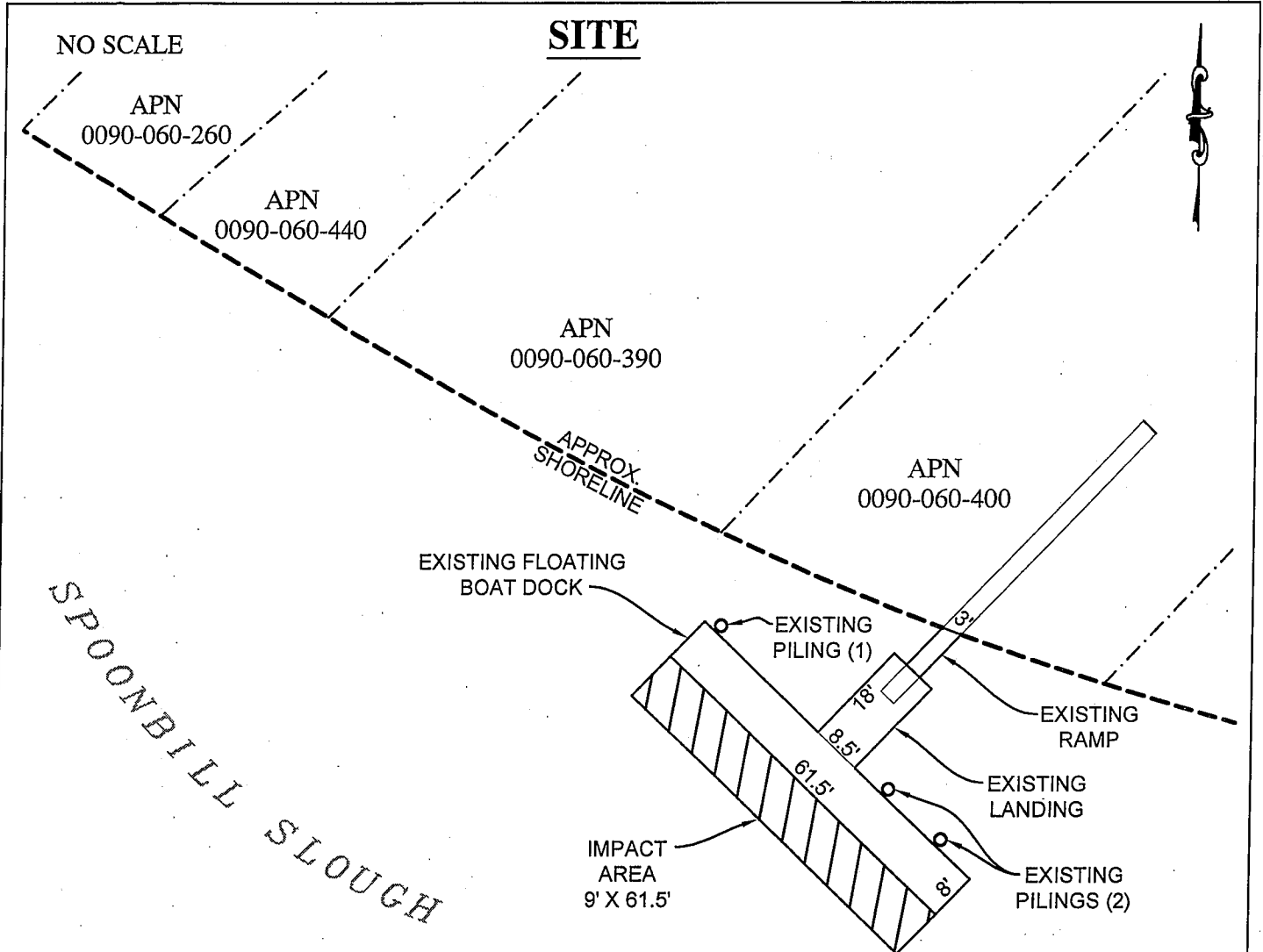
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the north bank of the Spoonbill Slough.

Accompanying plat is hereby made part of this description.

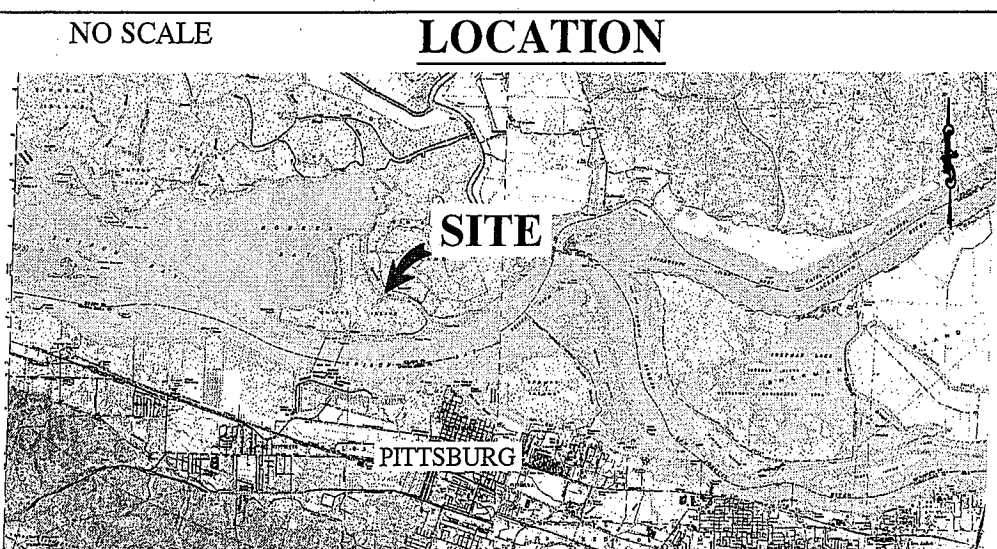
END OF DESCRIPTION

Prepared 02/24/2017 by the California State Lands Commission Boundary Unit.





SPOONBILL SLOUGH AT VAN SICKLE ISLAND



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B
W 27051
VAN SICKLE DUCK CLUB,
LLC
APN 0090-060-400
GENERAL LEASE -
RECREATIONAL USE
SOLANO COUNTY

